



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**



S.B. Civil Writ Petition No. 5860/2020

Jagdish Choudhary S/o Late Shri Purna Ram Silu, Aged About 38 Years, Resident Of Village Jeganiya Bidawata, Tehsil Ratangarh District Churu.

-----Petitioner

Versus

1. The State Of Rajasthan, Through Principal Secretary To The Government, Mines Department, The Government Of Rajasthan, Secretariat, Jaipur.
2. The Additional Director (Mines), Department Of Mines And Geology, 'khanij Bhawan', Jodhpur.
3. Assistant Mining Engineer, Department Of Mines And Geology, Churu.
4. Gora Devi W/o Late Shri Purna Ram, Aged about 62 Years, Resident of Village Jegniya Bidawatan, Via Rajaldesar, Tehsil Ratangarh, District Churu (Raj.)

-----Respondents

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For Petitioner(s) : Mr. DD Thanvi  
For Respondent(s) : Mr. Jitendra Kumar Mishra  
Mr. HR Saran  
Mr. VR Choudhary

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**JUSTICE DINESH MEHTA**

**Order**

**22/08/2024**

1. The petitioner, who is a son of a lesee Purna Ram Silu (who has since passed away), has challenged the action of the respondents, who according to him, are going to mutate the mining lease in the name of respondent No.4.



2. According to the petitioner, he was holding a power of attorney in his favour given by said Purna Ram Silu and was operating the mine in question. Mr. Thanvi argued that as per Rule 76 of Rajasthan Minor Mineral Concession Rules, 2017 (hereinafter referred to as the 'Rules of 2017'), unless the petitioner grants NOC, the respondents cannot mutate the mining lease in the name of respondent No.4.

3. Learned counsel for the respondents submitted that the respondent No.4 is a legally wedded wife of the lease holder and having a registered will in her favour and therefore, the question of obtaining NOC of the petitioner does not arise.

4. Heard learned counsel for the parties.

5. Admittedly, the petitioner has challenged the will that has been executed in favour of respondent No.4 and said suit is pending consideration before the competent Civil Court.

6. According to this Court, Rule 76 of the Rules 2017 operates in the situation where a lease holder dies intestate. When a person executes a will, the property transmits to the beneficiary by operation of law. And when the beneficiary claims mutation in his/her name on the basis of will, requirement of 'NOC' does not arise.

7. This Court is firmly of the view that NOC or affidavit or consent of the petitioner is not required, for the purpose of mutating the land in the name of beneficiary of the will.

8. No case worth interference is made out, the present writ petition is dismissed.

9. Needless to observe that if, the petitioner's suit is decreed and the contentious will is found to be illegal then, the Mining



Department shall have to proceed in terms of the decree passed by the trial Court.

10. Stay application also stands dismissed accordingly.

**(DINESH MEHTA),J**

1-raksha/-

